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Mothers' Rights are Human Rights

Reflections on Activism and History

In popular discourse today, mothers are often set in opposition to political and even human rights. Conservatives see women's "right to choose" as an assault on the fetus's human rights. Feminists, recalling the equality vs. difference debate, stress the incompatibility of organizing for mothers' rights and advancing women's rights more broadly. Advocates of "mothers' rights," at least in the U.S. and Canada, usually focus on issues—such as breastfeeding, child custody, and worklife balance—associated more with the quality of life for the middle class than with conventional human rights. This article argues for a new political discourse calling for mothers' human rights. It first reflects on two pivotal moments when the debate over mothers' rights and entitlements entered the mainstream: the call for motherhood endowment around 1920, and the demand for welfare rights fifty years later. Since the failure of those movements, the circumstances facing U.S. mothers today has become so dire that we cannot afford not to talk about mothers' human rights.

In popular discourse in North America today, mothers' rights are often set in opposition to political and even human rights. Conservatives claim that women's "right to choose" abortion is an assault on the fetus's human rights. Feminists, recalling the equality vs. difference debate, stress the incompatibility of organizing for mothers' rights and advancing women's rights more broadly. Yet when Hillary Rodham Clinton famously declared that women's rights are human rights at the Fourth World Conference on Women in 1995, much of her speech focused on mothers. "We are the primary caretakers for most of the world's children and elderly," Clinton told delegates at the Beijing conference. "Yet much of the work we do is not valued—not by economists, not by historians, not by popular culture, not by government leaders." She

talked of women struggling to protect their families from violence and raise their children on a minimum wage and watching their children fall victim to malnutrition and disease. Yet, nearly twenty years after the Beijing Conference, the growing calls for women's human rights have done little to improve the circumstances of mothers in the U.S. or abroad. According to a recent article on the online Shriver Report, a quarter of young families are living in poverty, and motherhood is now a "greater predictor of inequality than gender" in the United States (Rowe-Finkbeiner). In this essay, I argue that the circumstances of large numbers of mothers in the United States are so dire that we cannot afford *not* to talk about mothers' human rights.

In the pages that follow, I propose a new political discourse on mothers' human rights. I am not making a specific policy recommendation or advancing a political theory of motherhood. Rather, my goal is much more modest: to look back at some twentieth-century examples of U.S. women's activism and reflect on how we can shift the political discourse, mobilize diverse groups of women, and possibly find some common ground on mothers' human rights. My focus is on the United States, where economic inequality and the paucity of public health and welfare services have left mothers uniquely vulnerable, but many of my observations are applicable elsewhere as well.

Why mothers' human rights? If you google "mothers' rights," you get a lot of hits about breastfeeding, child custody, and worklife balance—issues that most people associate more with the quality of life for the middle class than with human rights, as we usually conceive them (that is, in terms of life-and-death rights violations in other countries.) Although aid agencies increasingly use the human rights framework to argue for safe motherhood in developing countries and improvements in maternity care, the issues and politics of motherhood in the United States and Canada are more narrowly construed. Poverty, economic inequality, and the high rates of child removal in black and Native communities are rarely considered a matter of mothers' rights.

The lack of attention to mothers' human rights in the United States has several explanations. The first is the fact that Americans rarely apply the human rights framework to their own country. Although Eleanor Roosevelt, the widow of U.S. President Franklin Roosevelt, chaired the Human Rights Commission and played a leading role in creating the Universal Declaration of Human Rights, the Cold War made domestic human rights claims impractical in the United States. Activists who used an international human rights framework to advance African American civil rights or demand economic rights, such as health care, were generally attacked as Soviet-inspired Communists. Thus, "rights" talk in the United States focused almost exclusively on civil and constitutional rights, and human rights were seen as an exclusively international concern (Anderson 5).

Second, the incorporation of women's rights into mainstream human rights work is only about twenty years old. Although gender was of paramount concern to the women involved in the founding of the United Nations—and the Universal Declaration states that “everyone” is entitled to its rights and freedoms without any distinction (including sex)—human rights organizations tend to emphasize political and civil rights, rather than economic and social rights, and this has had the result of playing down women's concerns (Article 2; see Lockwood). Moreover, as many feminists have pointed out, the universal rhetoric of human rights has masked the masculinist orientation of liberal individualism and reinforced a public-private distinction that defined the actions of private individuals, especially within the family where women are particularly vulnerable, as outside the boundaries of “human rights.” The Convention on the Elimination of All Forms of Discrimination Against Women, adopted in 1979, provides a framework for protecting women's human rights, but it has not been ratified by the United States (Lockwood 59, 55).

Some readers may feel that an emphasis on mothers' human rights is risky because it might universalize or essentialize the mother role. Feminists do not want to define women *only* as mothers or imply that women are naturally more nurturing than men, and we certainly do not want to reinforce the notion that care-giving is women's responsibility alone. In addition, it is patently obvious that “mothers” are a diverse group with conflicting viewpoints and vastly different levels of economic and social power, and that the interests of mothers and non-mothers (especially daughters) are not the same.

In fact, popular culture hammers home the disagreements among mothers to such an extent that any political claims on mothers' behalf can seem absurd. It is true that the media's fixation on the “mommy wars”—the debate over stay at home mothers vs. career women—has subsided; after all, two-thirds of U.S. families now rely on the mother's income (Boushey). But the highly-publicized battles over parenting strategies are heating up, as the intense reaction to *The Battle Hymn of the Tiger Mother*, Amy Chua's satirical account of her Chinese parenting style, reveals. It is no wonder that a growing number of writer-mothers have rejected maternalism and the ideology of self-sacrifice and are reclaiming the “bad mother” label. Ayelet Waldman's *Bad Mother* and a host of blogs, like Scary Mommy, irreverently challenge the very concept of a “good” mother, while reality shows like *Teen Mom* and *Dr. Phil* turn “bad” mothering into entertainment. It is hardly surprising that most advocates of women's equality have preferred to craft a gender-neutral policy.

All the media attention to parenting masks the curious fact that mothers and mothering issues have been relatively invisible in the political-policy arena in the last ten years. Despite the best efforts of the web-based Shriver Report and MomsRising.org, crucial political battles over Obamacare, climate change,

drug policy, and even abortion are not shaped by pro-mother arguments or even the politics of mother-blame, but by the invisibility and erasure of the mother as a person.

It wasn't always so. Motherhood was an important political discourse for most of the twentieth century, and at two pivotal moments in first and second-wave feminism, the debate over mothers' rights and entitlements entered the mainstream. A brief examination of two moments when feminists spoke forcefully about mothers' economic and social rights—first, in the call for motherhood endowment around 1920, and then in the demand for welfare rights fifty years later—suggest some possibilities and challenges for activists today.

The vast scholarship on the politics of motherhood in the United States has focused almost exclusively on maternalism, the early twentieth-century movement of mostly white middle-class women that used the political language of the “good mother” to establish maternal and child welfare programs, promote peace, and enlarge women's rights. Drawing on nineteenth-century ideology of home and separate spheres, maternalists claimed that women's innate nurturing qualities gave them a special ability, indeed a responsibility, to protect children and clean up society (Ladd-Taylor; Koven and Michel).

Scholars have debated the influence and legacy of maternalism, and with a few notable exceptions, such as the Harvard sociologist Theda Skocpol, most have been sharply critical. As Linda Gordon has shown, the maternalist strategy of “putting children first” undermined women's efforts toward empowerment in other aspects of their lives, such as employment (85). In addition, most scholars agree, maternalists failed to question gender distinctions, took for granted the superiority of protestant middle-class culture, and assumed that mothers should stay home with the kids (even though they themselves did not). Because maternalists focused on the needs of women and children, as they defined them, and on protection rather than rights, they claimed to speak for all mothers. As Gordon points out, maternalism worked best as a political strategy when women could define themselves as good mothers, but its romanticized view of motherhood disadvantaged poor women and women of colour who were often not recognized as good mothers (85). To use just one chilling example, maternalists were deeply involved in the removal of indigenous children from their families, buttressing settler colonialism under the pretense of rescuing and protecting Native children (Jacobs, 88).

Yet not all organizing around motherhood in the early twentieth century put children first. Socialists, feminists, and African American club women also used the rhetoric of motherhood, but with different political aims (Boris; Ladd-Taylor 1994). The American lawyer Crystal Eastman (1881-1928) is a prime example; her feminist principles included both equal rights *and* the recognition of childrearing as work. Eastman was an outspoken suffragist and

a defiant leader in the feminist movements for peace and economic justice. She drafted New York's first workers' compensation law, which would become a model for other states, and was a co-founder of both the Woman's Peace Party (later the Women's International League for Peace and Freedom) and the American Civil Liberties Union. She was also a member of the feminist National Woman's Party and a co-author of the Equal Rights Amendment. Eastman was also one of the few white women activists of her generation to insist on women's right to combine wage-work with marriage and motherhood. In an essay, "Now We Can Begin" (1920) written shortly after women won the vote, Eastman laid out a bold four-point feminist program that included employment rights; gender equality in the home; birth control; and motherhood endowment, a government payment for caregiving work. She asked:

What is the problem of women's freedom? It seems to me to be this: how to arrange the world so that women can be human beings, with a chance to exercise their infinitely varied gifts in infinitely varied ways, instead of being destined by the accident of their sex to one field of activity -housework and child-raising. And second, if and when they choose housework and child-raising, to have that occupation recognized by the world as work, requiring a definite economic reward and not merely entitling the performer to be dependent on some man. (Eastman, "Now We Can Begin")

Yet few Americans supported Eastman's call for motherhood endowment. Her own National Woman's Party voted down her sweeping feminist program in favour of a single-minded focus on the passage of the Equal Rights Amendment (Eastman and Cook). In England, however, the remarkable feminist Eleanor Rathbone, a future Member of Parliament, convinced others to take up the cause of motherhood endowment as a way to address women's poverty. Rathbone theorized that mothers' economic dependence was the root of all women's inequality, and although her idea of motherhood endowment as *women's* emancipation proved unsuccessful, a much-diluted form of her endowment plan shaped the Family Allowances program enacted in Britain in 1945 (Pedersen).

Despite the centrality of motherhood to politics in the 1910s and 1920s, the Depression years brought a dramatic shift. According to historian Rebecca Jo Plant, the interwar years saw the repudiation of the four fundamental principles of maternalism: the idea that mothering was a full-time job incompatible with wage-earning; the conviction that motherhood was a service to the state; the belief in the power of mother-love, and the assumption that mothering required selflessness, even self-sacrifice (3). The growing influence of psychology helped

to cement the cultural shift away from an idealized view of mother-love to a harsh insistence that pathological doting “moms” were responsible for a raft of social problems, including homosexuality, communism, and southern racism (Feldstein; Ladd-Taylor and Umansky).

The consequences for political organizing were dramatic. Despite the persistence of a motherhood discourse in the peace and civil rights movements, feminists such as Betty Friedan developed a harsh critique of suburban domesticity and stay-at-home motherhood, and focused on winning equality rights in the public sphere (Plant 154). Although feminists continued to organize on mothering issues such as breastfeeding, natural childbirth, and child care, the popular press equated feminism with an attack on motherhood (Umansky). It was not until the welfare rights movement of the late 1960s and early 1970s that mothers’ claims on the state returned to the political arena.

The welfare rights movement emerged out of the civil rights movement and the federal War on Poverty, which led to a dramatic increase in the welfare rolls. Welfare mothers challenged the arbitrary rules of the welfare bureaucracy, fought for material benefits for their children, and asserted the dignity of motherhood—no easy task in the wake of the federal government’s Moynihan Report (1965), which blamed welfare dependency on the “tangle of pathology” in the black family and on the black matriarchs who kept their men down. As several historians have shown, welfare rights activists worked to improve the lives of their children, but they did not simply put children first; they also struggled for their own autonomy and self-determination. Their challenge to the man in the house rule defied the assumption that mothers had to be selfless and asexual, while their critique of welfare flouted the liberal feminist assumption that paid work was the path to freedom (Nadesen; Kornbluh). At the National Women’s Conference in Houston in 1977, the mainstream women’s movement finally heard. Welfare mothers led by Beulah Sanders succeeded at passing a plank that declared poverty a woman’s issue; opposed welfare-to-work requirements; and endorsed higher wages and meaningful employment opportunities for recipients who wanted to work. It also asserted the value of care-giving work with these words: “Just as with other workers, homemakers receiving income transfer payments should be afforded the dignity of having that payment called a wage, not welfare” (National Commission 93).

Despite this success, the welfare rights movement failed. Unlike the 1910s, when maternalists were able to use the rhetoric of good motherhood to establish social welfare policies, poor black welfare mothers could not overcome the stereotype of the “bad mother”—as selfish, freeloading, and lazy. Their failure was the result of several forces: the economic downturn of the 1970s, the disarray of the black freedom movement, the backlash to the Great Society and to social welfare entitlements, and the rise of a conservative movement. In

addition, the failure of welfare rights was due to a transformation in motherhood itself—a transformation caused in large measure by the dramatic increase in maternal employment. Between 1950 and 1970, the labour force participation rate of married women with children under the age of 18 jumped from 18 to 40 percent; it stands at about 70 percent today (Waldman, 18; Boushey). The expectation that mothers would do wage-work when their children are small solidified support for welfare-to-work requirements and intensified the hostility to poor mothers dependent on the state.

From the 1970s to the 1990s, welfare mothers were a convenient political foil. President Ronald Reagan and countless other politicians made careers out of demonizing “welfare queens” and issuing apocalyptic warnings about a “lost generation” of babies born to crack-addicted black women (Ortiz and Briggs). The war on welfare suffused party politics until 1996, when President Bill Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and ended “welfare as we know it” (Chappell 1). The PRWORA eliminated the federal Aid to Families with Dependent Children program, imposed strict work requirements and time limits on public assistance, and shifted responsibility for welfare to the states. Sociologist Ann Orloff argues in “Farewell to Maternalism” that welfare reform marked the end of the maternalist era and eliminated motherhood as the basis for a claim upon the state (1). It also removed welfare as an electoral issue and took welfare mothers off the political table.

Yet if mothers are not the target of current controversies, they are the collateral damage. Things are so bad, I would argue, that feminist organizers should consider a new strategy that focuses on mothers’ *human* rights. We should insist that all women, including mothers and pregnant women, are entitled to be treated as human beings “born free and equal in dignity and rights,” to quote the 1948 Declaration (Article 1).

Let us begin with mothers’ “right to life, liberty and security of person” (Article 3), for the maternal mortality rate in the United States is shockingly high for an affluent country. In 2010, the United States ranked 50th in the world for maternal mortality. Maternal death rates in the U.S. are higher than almost every European country and higher than a number of countries in Asia and the Middle East (Coeytaux, Bingham, and Strauss 189). Moreover, at a time when most countries have reduced maternal mortality, the maternal death rate in the United States is increasing. As the journal *Contraception* points out in a 2011 editorial, “Given that at least half of maternal deaths in the United States are preventable, this is not just a matter of public health, but a human rights failure” (Coeytaux, Bingham, and Strauss 189). African Americans are four times as likely to die from childbirth-related causes as whites, and two to three times as likely to die as white women with the same pregnancy

related complications (Coeytaux, Bingham, and Strauss 189). Yet where is the national outrage over this preventable crisis in maternal health? The Universal Declaration of Human Rights holds that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services” (Article 25). Before Obamacare, however, most private insurance plans provided no coverage for maternity care (Rosenthal). The *Affordable Care Act*, in contrast, guarantees full coverage for maternity care, including breastfeeding support. Given the crisis in maternal health, the media’s single-minded focus on the controversy over Obamacare’s contraceptive and abortion coverage is both inexplicable and inexcusable. Perhaps more discussion of mothers’ *human* rights could refocus the public’s attention on mothers’ own “right to life” and win support for more equitable access to maternity care.

A dialogue on mothers’ human rights could also call attention to the denial of pregnant women’s “liberty and security of person” through unwanted medical interventions and misguided efforts to protect the so-called unborn. Although women in the United States are deeply divided on the issue of abortion, there may be more room for common ground when it comes to ensuring pregnant women’s right to be free from unwanted medical interventions and “arbitrary interference” with privacy, family, or home (Article 12; see National Advocates for Pregnant Women). Nearly one-third of all deliveries in the U.S. today are by cesarean section, twice the rate recommended by the World Health Organization (Gibbons et al). In a few cases, cesarean sections have been ordered by the courts. The best-known case is Laura Pemberton, a white woman from Florida who was taken into police custody during labour and forced to have a cesarean because the hospital and her doctor feared that her attempt to have a vaginal birth after a cesarean was endangering the fetus. Pemberton sued the hospital, alleging professional negligence and the violation of her rights to bodily integrity and to make personal family decisions without undue government interference. The court determined that the state’s interest in protecting the fetus prevailed over Pemberton’s constitutional rights, and her case was dismissed (Paltrow and Falvin 306-7).

Pemberton’s story is extreme, but hers was not an isolated case. A recent study by Lynn Paltrow and Jeanne Flavin found at least 413 cases between 1973 and 2005 in which U.S. women were subjected to arrest, detention, or forced interventions that they would not have experienced in the absence of pregnancy). More than half of the cases took place in the south, and the overwhelming majority of the affected women was economically disadvantaged; most were also African-American (309). Many of the women came to attention of the courts when they sought medical care or help after violent assault (326).

Drug-using women—and women thought to be using drugs—are particularly vulnerable. The federal government and most U.S. states have passed unborn victims of violence acts, making it a crime to harm a “child in utero” and establishing the fetus as a human being and potential victim distinct from the mother (Paltrow and Flavin 323). As Paltrow and Flavin point out, these statutes open the possibility for criminal or civil charges against pregnant women if a miscarriage or stillbirth occurs (323). Indeed, four U.S. states permit the forced confinement of pregnant women for substance abuse in *anticipation* of harm. In July 2013, the *New York Times* reported on the story of a Wisconsin woman, fourteen weeks pregnant, who was handcuffed and taken to a holding cell after she refused to take an anti-addiction drug. Alicia Beltran’s doctor did not believe her when she said that she had defeated an earlier addiction to painkillers (a claim later confirmed by a urine test), so the court appointed a legal guardian for her fetus and ordered her to a residential drug treatment center. Beltran was forced to spend 78 days in a treatment facility and, as a result, she lost her job. She filed suit in federal court claiming that the Wisconsin law is unconstitutional because it deprives women of physical liberty, privacy, due process, and equal treatment under the law (Eckholm).

Beltran’s suit is still pending, but in April 2014 mothers’ human rights took a giant step backwards in the United States. Tennessee became the first U.S. state to pass a law that permits a criminal charge, carrying up to fifteen years in prison, against a pregnant woman whose fetus or newborn is harmed through illegal drug use. The Tennessee law was passed over the vigorous objections of doctors, women’s rights organizations, and the American Civil Liberties Union, and a forceful editorial in the *New York Times*, all of whom argued that the risk to the fetus of narcotics addiction has been grossly exaggerated and that criminalizing pregnant women may keep them from seeking prenatal care or treatment for addiction (“Criminalizing Expectant Mothers”).

In the United States, the human rights framework has been applied most often to issues of sexual violence and incarceration. The United States has made some strides in the area of sexual violence since passage of the *Violence Against Women Act* in 1994, but an estimated 324,000 women in the U.S. experience intimate partner violence each year, and the Centers for Disease Control suggests that battering during pregnancy is more common than other conditions for which pregnant women are screened (Centers for Disease Control, Slide 1). Not surprisingly, the most extreme violations of women’s human rights in the United States occur in prison, where women are often shackled during childbirth. In a rare positive development, activists have successfully used the human rights framework to restrict this cruel and degrading practice. A federal bill signed by President Obama in early 2014 prohibits the shackling of pregnant women in immigrant detention centers, and eighteen U.S. states

now have laws prohibiting or restricting the shackling of pregnant prisoners (Lin, “End Near”). It is a small step in the right direction.

Many incarcerated women are denied the right to have a family (Article 16). Incarcerated mothers are often prevented from seeing their children because of limited visiting hours, the cost of visiting, and the location of the jail, and in 2013, the *Los Angeles Times* reported that 148 women sterilized in California prisons illegally and in some cases against their will (McGreevy and Willon). The Adoption and Safe Families Act of 1997, which allows child protection authorities to move quickly to terminate parental rights in cases of suspected abuse or if a child has been in foster care for fifteen months in a 22-monthly period, has had a devastating impact on incarcerated women—and their children. Such overzealous child protection policies have often been criticized as racist and harmful to children (Roberts). But they are also a violation of mothers’ human rights to protection from arbitrary interference in family life.

Finally, a discourse of mothers’ human rights may also be helpful when it comes to employment. The Universal Declaration of Human Rights holds that everyone has the right to work, to free choice of employment, to just and favourable conditions at work, and to a just remuneration and to reasonable limits on their working hours (Articles 23-24). Yet caregiving work is unrecognized, unpaid, and not counted in the GDP. Mothers are also at a disadvantage in paid employment, even though women are the sole or primary breadwinners in four out of ten families (Rampell). Even though the earnings of childless women and men are converging, researchers have documented a “motherhood wage penalty,” wherein mothers earn less than men and childless women, even when differences in job characteristics and work experience are controlled (Budig and England).

It is unfortunate that most of the public discussion about “working mothers” focuses on affluent women with careers. There is much less publicity about low wages, the impact of shift work—and the poverty of working families. The reality is that employed mothers in the U.S. work longer hours than in most other rich countries, including Canada, and they have fewer rights and resources. Many do not have paid sick days, and the Family and Medical Leave Act, which is unpaid and lasts only three months, only covers about half of employees. Low-wage workers often work nonstandard hours outside the Monday to Friday 9:00-5:00 workweek (when schools and day cares are in operation). Many have inflexible work schedules, mandatory overtime, no paid sick days, and no right to even request a flexible work schedule without retaliation, making it nearly impossible to be either a “good mother” or a “good employee” (Frohlich and Watson). Employers often attribute bad work habits, like absenteeism and making personal phone calls at work, to workers’ irre-

sponsibility and laziness, while pundits complain that parental neglect means that kids in poor neighbourhoods are out of control. A public discourse about mothers' human rights might help shift the debate. Given the crisis many U.S. mothers are facing, it certainly cannot do any harm.

A political discussion of mothers' human rights would be no panacea, but it might begin a political dialogue that would "connect the dots" and empower mothers and pregnant women by addressing the totality of women's lives—in the workplace, community, and at home. In contrast to maternalism, which idealized women's supposedly nurturing qualities and promoted a certain kind of family life, the framework of mothers' human rights does not impose a single childrearing standard. It does not presume that motherhood is women's chief identity or even the most important aspect of women's lives. It simply acknowledges that mothers, like everyone else, are rights-bearing citizens and human beings. Women should not have to cede their human rights with pregnancy and motherhood. To paraphrase Hillary Clinton's famous phrase about women's rights, it is clear that mothers "will never gain full dignity until their human rights are respected and protected."

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